

Serial No. 10/790,571

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
FLUX DRIVE, INC.

Serial No.: 10/790,571

Group Art Unit: 2834

Filed: March 1, 2004

Examiner: Dang D. Le

Title:
APPARATUS TO TRANSFER
TORQUE MAGNETICALLY

Date: October 5, 2006
Sent Via Facsimile Transmission
To 571-273-8300

**SUBMISSION UNDER 37 C.F.R. 1.114 WITH REQUEST FOR CONTINUED
EXAMINATION AND REPLY TO FINAL OFFICE ACTION MAILED ON
AUGUST 31, 2006**

Mail Stop RCE
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Final Office Action mailed on August 31, 2006, the Applicant had an interview with Examiner Dang Le on September 15, 2006, a Summary of which is attached hereto pursuant to 37 CFR 1.133(b). The Applicant hereby submits its response to said Final Office Action and the Applicant respectfully requests reconsideration said Office Action, and support thereof, Applicant hereby submits the attached Amendments together with a Request for Continued Examination ["RCE"] of the above-identified application.

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**SUBSTANCE OF INTERVIEW CONDUCTED WITH EXAMINER ON SEPTEMBER
15, 2006; PER 37 CFR 1.133(b) and MPEP 713.04:**

A personal interview among Examiner Dang D. Le, and applicant's patent counsel Steven J. Miller, Esq. was conducted on September 15, 2006, at the USPTO headquarters located in Alexandria, Virginia. The topic of discussion was the Examiner's Final Office Action dated August 31, 2006, and comments contained therein.

The Applicant's undersigned counsel clarified the applicant's invention as claiming permanent magnets on only one of the two rotary members (as discussed in the earlier personal interview on November 29, 2005) but also that the Applicant's magnetically permeable material on the other rotary member (the one without the permanent magnets) was not ferromagnetic (see Exhibit A on the attached Declaration from the undersigned counsel). Nothing in the entire application's specification states any reliance on the "magnetic" or residual magnetism characteristics of the magnetically permeable material that supports and backs the electro-conductive ring. Applicant's counsel pointed out that iron has many isotopes and allotropes. Certain allotropes of common iron isotopes are "magnetic" (i.e. have appreciable residual magnetism) (see Exhibit C attached to the undersigned counsel's attached 37 CFR 1.132 Declaration, for alpha, beta, gamma and delta allotropic forms of iron and their "magnetic" characteristics; the alpha allotrope is "magnetic" but the beta, gamma and delta allotropes are not, so a comment in prior patents that iron is "non-magnetic" is necessarily overly broad, and

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must be taken in the specific context of that particular patent and its specific art area). Further, that within the category of stainless steels, that the various magnetic characteristics vary according to the alloy content (i.e. 300 series stainless vs. 400 series stainless) and also the manufacturing processes used in fabrication (therefore, analogous to the 'iron' issue discussed above, blanket comments in a prior patent that stainless steel is either "magnetic" or "non-magnetic" and "permeable" or "non-permeable", etc., is necessarily overly broad, and must be taken in the specific context of that particular patentee's lexicography and its specific art area). Applicant clarified that the subject invention's rotary member which does not have permanent magnets, does have electro-conductive elements and permeable materials neither of which (i.e. the electro-conductive elements and the permeable materials supporting and backing them), are ferromagnetic. Said permeable material may consist of a "ferrous" material, but said "ferrous" material is not also "ferromagnetic" (see Exhibits B, C and D attached to the undersigned counsel's attached 37 CFR 1.132 Declaration).

In this context, the undersigned counsel and the Examiner reviewed MASAKI [JP-02-074146] as it relates to Examiner's 35 USC 103 rejections of Applicant's claim #'s 1 and 16. MASAKI claims a "magnetic" body, (which may be made of 'iron' [part # 3], see Applicant's certified English translation of MASAKI previously filed, page 4 line 10) on MASAKI's rotary member that does not have permanent magnets, notwithstanding other suggested magnetic characteristics for 'iron' contained in other patents in different contexts, 'iron' may be either "magnetic" or "non-magnetic" depending on the isotope and allotrope used [see Examiner's comments in Final Office Action mailed on August 31, 2006, paragraph # 2, HUANG

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(6,906,517) and VAN BIJSTERVELD (6,824,329) patents, and the aforementioned Exhibits B, C and D attached; Exhibit C showing the different “magnetic” characteristics of the different allotropes of ‘iron’]. The undersigned counsel clarified with the Examiner in this interview, that the subject invention specifically has not, and does not, claim anywhere in the subject application disclosure, any residual magnetism or “magnetic” properties on materials on the rotor that does not have permanent magnets; but, as stated above, MASAKI, in fact, does claim a “magnetic” body (see part # 3-MASAKI). Therefore, given this clarification of the subject invention, MASAKI, in view of LEHDE (2,807,734) cannot suggest or teach towards the Applicant’s subject invention [see paragraph # 5 of Final Office Action mailed on August 31, 2006]. Further, DENK (5,292,284) and MURPHY (3,860,064) both disclose permanent magnets on both of their respective rotary members [in DENK, see col. 1, lines 21-22; in MURPHY, see Fig. 1 parts 18, 19 and see col. 2, lines 32-35]. Therefore, given the aforementioned clarification of the subject invention, DENK in view of LEHDE, and LEHDE in view of MURPHY, cannot suggest or teach towards the Applicant’s subject invention [see paragraphs # 6 and # 7, respectively, of Final Office Action mailed on August 31, 2006].

Given the above stated clarification of the Applicant’s invention, the Examiner suggested that the applicant to point out the material the applicant used in the preferred embodiment, which is non-magnetic stainless steel, in a dependent claim. The applicant will also amend the independent claims to clarify the use of non-ferromagnetic material on the rotor that does not have permanent magnets.

Reference is made to the record Examiner’s Interview Summary (Form PTOL-413) dated